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UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO

In Re:)
)
) CASE NO. 98-30052-7
William & Lynn Moore)
) UNITED STATES TRUSTEE'S
) MOTION FOR REVIEW OF
) ATTORNEY FEES PURSUANT
) TO 11 USC 329
)
Debtor(s))
_____)

The United States Trustee requests the Court to determine the reasonable value of the attorney fees collected by Kenneth Anderson in connection with this case within one year of filing. This Motion is made pursuant to 11 USC 329, FRBP 2016 & 2017. The Court should consider the following factors when determining the reasonable value of the attorney fees paid to Kenneth Anderson:

1. The Bankruptcy Rule 2016(b) Disclosure of Compensation Statement, the Affidavit of Counsel, and related documents filed in this case reveals that \$2,050.00 was approved to be paid to Kenneth Anderson for services related to the chapter 13 process. This attorney fee was composed of \$550.00 paid to counsel as a retainer, \$800.00 approved through the initial plan and \$700.00 allowed in an order approving a plan amendment. The Chapter 13 Trustee paid debtor's counsel \$1444.00 through the plan prior to conversion of the case.
2. The chapter 13 petition, schedules and statement of financial affairs were filed on February 8, 1998, the chapter 13 plan was confirmed on May 13, 1998, the amended chapter 13 plan was confirmed on July 18, 1998 and a modification was approved on January 4, 1999. The case was converted to chapter 7 on March 30, 2000.
3. On April 7, 2000, debtor's counsel filed an attorney fee disclosure statement which revealed that the debtor had paid counsel \$300.00 to cover the attorney

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fees and cost of converting this case to chapter 7. Neither the chapter 13 plans nor the orders confirming the plan provided for the payment of the \$300.00 for conversion of the case. No application for approval of the conversion fee has been filed in this case.

4. It is the position of the United States Trustee that the confirmed plan binds all parties [11 USC 1327(a)] and prevents any payments to debtor's counsel for services provided in connection with the case which have not been approved by the court and included in the Chapter 13 plan.

"There is at least one additional problem with this transaction. Here, the Court had confirmed a plan which provided the balance of Counsel's attorney fees and costs be paid in monthly installments through Debtor's Chapter 13 Plan by Trustee. Counsel, as an administrative creditor, and Debtor were both bound by the provisions of the plan. 11 USC 1327(a). Counsel could not accept, and Debtor could not make, unauthorized post-confirmation transfers in contravention to the terms of the plan. It is of no consequence the property transferred had been exempted or had "revested" in the Debtor upon confirmation. Nor is it important that the case was later converted to Chapter 7. The offensive transfer took place, by Counsel's and Debtor's admission, while the plan was in effect."

In Re Soderberg, 99.4 IBCR 152, 153 (1999)

"Once the Chapter 13 plan was confirmed, it was binding on the debtor and all creditors."

In Re Fietz, 852 F2d 455, 458 (9th Cir. 1988)

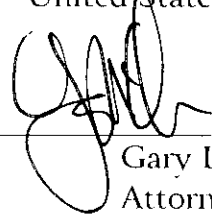
"The purpose of Section 1327(a) is the same as the purpose served by the general doctrine of res judicata. There must be finality to a confirmation order so that all parties may rely upon it without concern that actions which they may thereafter take could be upset because of a later change or revocation of the order..." In Re Walker, 128 B.R. 465, 467 (Bankr. D. Idaho 1991)

In Re Pardee, 218 B.R. 916, 923 (9th Cir BAP 1998) [Affirmed In Re Pardee, 193 F3d 1083 (9th Cir 1999)]

The United States Trustee requests that the Court determine whether debtor's counsel could receive payment of attorney fees in connection with the conversion of this case without prior notice and Court approval. If the Court determines that the payment is not supported by the Bankruptcy Code and Rules then the United States Trustee requests that debtor's counsel be ordered to return the funds to the debtor.

Dated: April 21, 2000

Jan Samuel Ostrovsky
United States Trustee

A handwritten signature in black ink, appearing to read 'G. McClendon', is written over a horizontal line.

Gary L. McClendon
Attorney for U.S. Trustee